

# HOUSE BILL REPORT

## HB 1416

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**As Reported by House Committee On:**  
Community Development & Housing

**Title:** An act relating to a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

**Brief Description:** Concerning a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

**Sponsors:** Representatives Pettigrew, Orcutt, Dickerson, Hinkle, Kenney, Dammeier, Hunt, Santos, Seaquist, Kelley, Warnick and Harris.

**Brief History:**

**Committee Activity:**

Community Development & Housing: 1/26/11, 2/3/11 [DP].

**Brief Summary of Bill**

- Allows a business and occupation (B&O) tax deduction for a nonprofit property management company receiving compensation for on-site employees from the owner of a property.
- Allows a B&O tax deduction for a property management company receiving compensation for on-site employees either from a housing authority or from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority.
- Repeals a B&O tax exemption for nonprofit property management companies receiving amounts from property owners, and for property management companies receiving amounts from housing authorities for compensation of on-site personnel.
- Modifies the definitions of on-site personnel and nonprofit management company.

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### HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT & HOUSING

**Majority Report:** Do pass. Signed by 8 members: Representatives Kenney, Chair; Finn, Vice Chair; Smith, Ranking Minority Member; Ahern, Maxwell, Ryu, Santos and Walsh.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Jennifer Thornton (786-7147).

**Background:**

Property owners often hire property management companies to manage their real property. Frequently, the property management companies also manage the personnel who perform the necessary services at the property location. The property owners may pay the on-site personnel through the property management company.

Under legislation adopted in 1998, property management companies are not responsible for paying business and occupation (B&O) taxes on amounts they receive for and pay to an on-site employee when: (1) the employee works primarily at the owner's property; (2) the employee's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and (3) under the property management agreement, the employee's compensation is the ultimate obligation of the property owner, and all actions, including hiring, firing, compensation, and conditions of employment, taken by the property manager are subject to the approval of the property owner. The money must be paid from a property management trust account.

In October 2006 the Department of Revenue issued an excise tax advisory clarifying that an on-site employee may work at multiple properties owned by different owners, but the exemption is only available if a majority (more than 50 percent) of the services are performed for a single owner and the exemption only applies to that single owner's share of the on-site employee's wages and benefits.

In 2010 Second Engrossed Substitute Senate Bill 6143 narrowed the B&O tax exemption covering property management companies for amounts received from a property owner for compensation of on-site personnel to apply only to: (1) non-profit property management companies; and (2) property management companies receiving amounts from a housing authority for compensation of on-site personnel. In May 2010 the Department of Revenue issued a special notice providing additional clarity on the legislation.

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**Summary of Bill:**

The B&O tax deductions are permitted for amounts: (1) a nonprofit property management company receives for compensating on-site employees from the owner of property; (2) a property management company receives for compensating on-site employees from a housing authority; and (3) a property management company receives for compensating on-site employees from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority.

The B&O tax exemption is repealed for amounts received by: (1) a nonprofit property management company from a property owner for compensation of on-site personnel paid from a property management trust account; and (2) a property management company from a housing authority for compensation of on-site personnel paid from a property management trust account.

The definition for on-site personnel is changed to a definition of personnel performing on-site functions. The new definition enables personnel to work at the owner's property or centrally perform on-site functions, rather than to require that they work primarily at the owner's property. It removes provisions of the written property management agreement.

The definition of nonprofit management company is modified to: (1) require an organization to qualify for a property tax exemption for providing property management services for low-income housing in addition to the current requirement of being a 501(c) federally tax-exempt organization; and (2) include public corporations established by cities, towns, or counties for limited and specified purposes.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Housing authorities manage federally subsidized housing programs. Some also manage affordable housing through the bond and Low Income Housing Tax Credit (LIHTC) program, which allow housing authorities to maximize resources by partnering with private investors. A limited liability company (LLC) or a limited partnership (LP) is sometimes created to get the benefit under the LIHTC program, while the property is still run by the housing authority. Nonprofits have the same issue around LIHTC properties. The B&O tax exemption for property managers was repealed last year, but was specifically retained for housing authorities and nonprofits. However, it excluded some properties from the exemptions, based on the LLC and the LP structure. The functions are the same, yet some properties are qualifying under the B&O exemption and others are not. This is a technical correction that will lead to consistency.

(Opposed) None.

**Persons Testifying:** Megan Hyla, Association of Washington Housing Authorities; and Majken Ryherd, Plymouth Housing Group.

**Persons Signed In To Testify But Not Testifying:** None.